



Sen. John G. Mulroe

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LRB097 05510 HLH 51703 a

1 AMENDMENT TO SENATE BILL 97

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 97 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Small Business Job Creation Tax Credit Act  
5 is amended by changing Sections 10 and 25 as follows:

6 (35 ILCS 25/10)

7 Sec. 10. Definitions. In this Act:

8 "Applicant" means a person that is operating a business  
9 located within the State of Illinois that is engaged in  
10 interstate or intrastate commerce and either:

11 (1) has no more than (A) 50 full-time employees if the  
12 applicant is applying for a credit for a new employee hired  
13 on or after July 1, 2010 and on or before June 30, 2012 and  
14 (B) 100 or fewer employees if the applicant is applying for  
15 a credit for a new employee hired on or after July 1, 2011  
16 and on or before June 30, 2012, without regard to the

1 location of employment of such employees at the beginning  
2 of the incentive period applicable to the applicant; or

3 (2) hired within the incentive period an employee who  
4 had participated as worker-trainee in the Put Illinois to  
5 Work Program during 2010.

6 In the case of any person that is a member of a unitary  
7 business group within the meaning of subdivision (a)(27) of  
8 Section 1501 of the Illinois Income Tax Act, "applicant" refers  
9 to the unitary business group.

10 "Certificate" means the tax credit certificate issued by  
11 the Department under Section 35 of this Act.

12 "Certificate of eligibility" means the certificate issued  
13 by the Department under Section 20 of this Act.

14 "Credit" means the amount awarded by the Department to an  
15 applicant by issuance of a certificate under Section 35 of this  
16 Act for each new full-time equivalent employee hired or job  
17 created.

18 "Department" means the Department of Commerce and Economic  
19 Opportunity.

20 "Director" means the Director of the Department.

21 "Full-time employee" means an individual who is employed  
22 for a basic wage for at least 35 hours each week or who renders  
23 any other standard of service generally accepted by industry  
24 custom or practice as full-time employment. An individual for  
25 whom a W-2 is issued by a Professional Employer Organization is  
26 a full-time employee if he or she is employed in the service of

1 the applicant for a basic wage for at least 35 hours each week  
2 or renders any other standard of service generally accepted by  
3 industry custom or practice as full-time employment. For the  
4 purposes of this Act, such an individual shall be considered a  
5 full-time employee of the applicant.

6 "Professional Employer Organization" (PEO) shall have the  
7 same meaning as defined in Section 5-5 of the Economic  
8 Development for a Growing Economy Tax Credit Act.

9 "Incentive period" means (i) for applicants with 50 or  
10 fewer employees on July 1, 2010, and for applicants who hired  
11 an employee who had participated as a worker-trainee in the Put  
12 Illinois to Work Program during 2010, the period beginning July  
13 1, 2010 and ending on June 30, 2012 and (ii) for applicants  
14 with 100 or fewer employees on July 1, 2011, other than  
15 applicants who qualified under item (i) of this definition, the  
16 period beginning July 1, 2011 and ending June 30, 2012 ~~June 30,~~  
17 ~~2011.~~

18 "Basic wage" means compensation for employment that is no  
19 less than \$10 per hour or the equivalent salary for a new  
20 employee.

21 "New employee" means a full-time employee:

22 (1) who first became employed by an eligible applicant  
23 ~~with less than 50 full-time employees~~ within the incentive  
24 period whose hire results in a net increase in the  
25 applicant's full-time Illinois employees and who is  
26 receiving a basic wage as compensation; or

1           (2) who participated as a worker-trainee in the Put  
2 Illinois to Work Program during 2010 and who is  
3 subsequently hired during the incentive period by an  
4 applicant and who is receiving a basic wage as  
5 compensation.

6 The term "new employee" does not include:

7           (1) a person who was previously employed in Illinois by  
8 the applicant or a related member prior to the onset of the  
9 incentive period; or

10           (2) any individual who has a direct or indirect  
11 ownership interest of at least 5% in the profits, capital,  
12 or value of the applicant or a related member.

13 "Noncompliance date" means, in the case of an applicant  
14 that is not complying with the requirements of the provisions  
15 of this Act, the day following the last date upon which the  
16 taxpayer was in compliance with the requirements of the  
17 provisions of this Act, as determined by the Director, pursuant  
18 to Section 45 of this Act.

19 "Put Illinois to Work Program" means a worker training and  
20 employment program that was established by the State of  
21 Illinois with funding from the United States Department of  
22 Health and Human Services of Emergency Temporary Assistance to  
23 Needy Families funds authorized by the American Recovery and  
24 Reinvestment Act of 2009 (ARRA TANF Funds). These ARRA TANF  
25 funds were in turn used by the State of Illinois to fund the  
26 Put Illinois to Work Program.

1 "Related member" means a person that, with respect to the  
2 applicant during any portion of the incentive period, is any  
3 one of the following,

4 (1) An individual, if the individual and the members of  
5 the individual's family (as defined in Section 318 of the  
6 Internal Revenue Code) own directly, indirectly,  
7 beneficially, or constructively, in the aggregate, at  
8 least 50% of the value of the outstanding profits, capital,  
9 stock, or other ownership interest in the applicant.

10 (2) A partnership, estate, or trust and any partner or  
11 beneficiary, if the partnership, estate, or trust and its  
12 partners or beneficiaries own directly, indirectly,  
13 beneficially, or constructively, in the aggregate, at  
14 least 50% of the profits, capital, stock, or other  
15 ownership interest in the applicant.

16 (3) A corporation, and any party related to the  
17 corporation in a manner that would require an attribution  
18 of stock from the corporation under the attribution rules  
19 of Section 318 of the Internal Revenue Code, if the  
20 applicant and any other related member own, in the  
21 aggregate, directly, indirectly, beneficially, or  
22 constructively, at least 50% of the value of the  
23 corporation's outstanding stock.

24 (4) A corporation and any party related to that  
25 corporation in a manner that would require an attribution  
26 of stock from the corporation to the party or from the

1 party to the corporation under the attribution rules of  
2 Section 318 of the Internal Revenue Code, if the  
3 corporation and all such related parties own, in the  
4 aggregate, at least 50% of the profits, capital, stock, or  
5 other ownership interest in the applicant.

6 (5) A person to or from whom there is attribution of  
7 stock ownership in accordance with Section 1563(e) of the  
8 Internal Revenue Code, except that for purposes of  
9 determining whether a person is a related member under this  
10 paragraph, "20%" shall be substituted for "5%" whenever  
11 "5%" appears in Section 1563(e) of the Internal Revenue  
12 Code.

13 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11.)

14 (35 ILCS 25/25)

15 Sec. 25. Tax credit.

16 (a) Subject to the conditions set forth in this Act, an  
17 applicant is entitled to a credit against payment of taxes  
18 withheld under Section 704A of the Illinois Income Tax Act:

19 (1) for new employees who participated as  
20 worker-trainees in the Put Illinois to Work Program during  
21 2010:

22 (A) in the first calendar year ending on or after  
23 the date that is 6 months after December 31, 2010, or  
24 the date of hire, whichever is later. Under this  
25 subparagraph, the applicant is entitled to one-half of

1           the credit allowable for each new employee who is  
2           employed for at least 6 months after the date of hire;  
3           and

4           (B) in the first calendar year ending on or after  
5           the date that is 12 months after December 31, 2010, or  
6           the date of hire, whichever is later. Under this  
7           subparagraph, the applicant is entitled to one-half of  
8           the credit allowable for each new employee who is  
9           employed for at least 12 months after the date of hire;

10          (2) for all other new employees, in the first calendar  
11          year ending on or after the date that is 12 months after  
12          the date of hire of a new employee. The credit shall be  
13          allowed as a credit to an applicant for each full-time  
14          employee hired during the incentive period that results in  
15          a net increase in full-time Illinois employees, where the  
16          net increase in the employer's full-time Illinois  
17          employees is maintained for at least 12 months.

18          (b) The Department shall make credit awards under this Act  
19          to further job creation.

20          (c) The credit shall be claimed for the first calendar year  
21          ending on or after the date on which the certificate is issued  
22          by the Department.

23          (d) The credit shall not exceed \$2,500 per new employee  
24          hired.

25          (e) The net increase in full-time Illinois employees,  
26          measured on an annual full-time equivalent basis, shall be (i)

1 for applicants that are eligible for entire the incentive  
2 period beginning on July 1, 2010 and ending on June 30, 2012,  
3 the maximum total number of full-time Illinois employees  
4 employed by the applicant for at least 12 consecutive months  
5 during any portion of the period running from July 1, 2010 to  
6 July 1, 2012, minus the number of full-time Illinois employees  
7 employed by the employer on July 1, 2010 and (ii) for  
8 applicants that are eligible only for the portion of the  
9 incentive period beginning July 1, 2011 and ending June 30,  
10 2012, the total number of full-time Illinois employees employed  
11 by the applicant on June 30, 2012, minus the number of  
12 full-time Illinois employees employed by the applicant on July  
13 1, 2011. ~~total number of full-time Illinois employees of the~~  
14 ~~applicant on June 30, 2011, minus the number of full time~~  
15 ~~Illinois employees employed by the employer on July 1, 2010.~~  
16 For purposes of these calculations ~~the calculation~~, an employer  
17 that begins doing business in this State during the incentive  
18 period, as determined by the Director, shall be treated as  
19 having zero Illinois employees on July 1, 2010.

20 (f) The net increase in the number of full-time Illinois  
21 employees of the applicant under subsection (e) must be  
22 sustained continuously for at least 12 months, starting with  
23 the date of hire of a new employee during the incentive period.  
24 Eligibility for the credit does not depend on the continuous  
25 employment of any particular individual. For purposes of this  
26 subsection (f), if a new employee ceases to be employed before

1 the completion of the 12-month period for any reason, the net  
2 increase in the number of full-time Illinois employees shall be  
3 treated as continuous if a different new employee is hired as a  
4 replacement within a reasonable time for the same position.

5 (g) The Department shall promulgate rules to enable an  
6 applicant for which a PEO has been contracted to issue W-2s and  
7 make payment of taxes withheld under Section 704A of the  
8 Illinois Income Tax Act for new employees to retain the benefit  
9 of tax credits to which the applicant is otherwise entitled  
10 under this Act.

11 (Source: P.A. 96-888, eff. 4-13-10; 96-1498, eff. 1-18-11.)

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law.".